

Agency 126

Unmarked Burial Sites Preservation Board

Articles

126-1. UNMARKED BURIAL SITES.

Article 1.—UNMARKED BURIAL SITES

126-1-1. Unmarked burial site registry.

(a) “Registry” means the unmarked burial site registry established by the board pursuant to K.S.A. 75-2745, and amendments thereto.

(b) The types of evidence submitted to the board for its consideration in determining whether or not to list a site on the registry may include any of the following:

(1) The absence of obvious grave markers;

(2) documentation, oral or written, which may include any of the following:

(A) A statement from any landowner of record of the site;

(B) a statement from any potential descendant; or

(C) a statement from any member of an American Indian tribe potentially having a continuing cultural affiliation with the decedent; or

(3) physical evidence at the site. (Authorized by and implementing K.S.A. 75-2745 and 75-2746; effective Nov. 1, 2002.)

126-1-2. Permits for excavation, study, display, and reinterment. (a) Except as provided in subsection (b), a permit shall be required for each of the following actions:

(1) The excavation of any unmarked burial site, registered or unregistered;

(2) the study of human skeletal remains from any unmarked burial site, including any goods interred with those remains;

(3) the reinterment of human skeletal remains from any unmarked burial site, including any goods originally excavated with those remains; and

(4) the public display of human skeletal remains from any unmarked burial site, including any goods excavated with those remains.

(b) A permit shall not be required for any of the following actions:

(1) The disinterment, possession, display, transfer, reinterment, or disposition of human skeletal remains, or goods interred with those remains,

when undertaken by a criminal justice or law enforcement agency, coroner, or medical examiner in conjunction with a criminal investigation or pursuant to K.S.A. 22a-231 and amendments thereto;

(2) any limited test excavation of a suspected unmarked burial site under the supervision of the chairperson of the board to determine whether a property contains a burial site; or

(3) the inadvertent discovery of an unmarked burial site if, immediately upon the discovery of human remains, all excavation ceases until a permit is obtained from the board.

(c) Each permit request shall include the following information:

(1) The name, address, and telephone number of the applicant and, if the applicant is an organization, the name of the contact person;

(2) a statement detailing the reason for the permit request; and

(3) a detailed work plan, which shall include the following information:

(A) The name of the archeologist who will supervise any excavation or disinterment. The supervising archeologist shall meet the qualifications specified in subsection (d);

(B) the name and credentials of the physical anthropologist who will supervise any study of remains;

(C) the legal description of the site of excavation or reinterment, and either photographs or digital images of the site;

(D) a detailed description of any proposed studies of the remains;

(E) a detailed description of any proposed plan to display the remains; and

(F)(i) A proposed date and location of reinterment; or

(ii) a proposed date and description of any type of disposition other than reinterment of the disinterred remains or goods, or both, from the site.

(d) Each supervising archeologist shall meet the following minimum professional qualifications:

(1) A graduate degree in archeology, anthropology, or a closely related field;

(2) at least one year of full-time professional experience or equivalent specialized training in archeological research, administration, or management;

(3) at least four months of supervised field and analytic experience in general North American archeology;

(4) the demonstrated ability to carry research to completion; and

(5) at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period.

(e) A nonrefundable \$50.00 application fee shall accompany each permit request, except an emergency request for a permit or a permit for which the board waives this fee.

(f) The following factors shall be considered by the board:

(1)(A) The medical, educational, or scientific reasons for the permit;

(B) the manner in which any work is to be conducted; and

(C) the qualifications of the participants in the project; and

(2) the concerns of any potential descendants, including members of American Indian tribes po-

tentially having a continuing cultural affiliation with the human remains or burial goods, or both.

(g) A permit to excavate may be granted if both of the following conditions are met:

(1) It is necessary to relocate an unmarked burial site for public health, safety, and welfare or for substantial economic reasons.

(2) The board finds that adequate plans for reinterment have been made.

(h) An excavation, study, display, or reinterment carried out pursuant to a permit shall not exceed the work plan authorized by the permit.

(i) One or more permits may be issued on an emergency basis by the chairperson of the board, with the concurrence of any board member. The reason for issuing any permit on an emergency basis shall consist of one of the following:

(1) To prevent imminent danger to life, significant harm to property, or significant economic loss;

(2) to prevent imminent destruction or desecration of an unmarked burial site; or

(3) to prevent an injustice or undue hardship.

(j) Each permittee shall maintain a copy of the permit at the location of any work carried out under that permit. (Authorized by and implementing K.S.A. 75-2745 and 75-2747; effective Nov. 1, 2002.)